

Please cancel claims ~~34-36~~.

REMARKS

Attached with this Amendment is a document titled "Amendments to the Specification and Claims With Changes Shown Revision Marks," whereby new text is underlined and deleted text is struck out.

The Office Action did not include a Draftsman's Review of Patent Drawings and the Applicant hereby requests a form to be completed and provided with the next Office Action.

Claims 19-21, 23-29, 31-33 and 37 remain in this application. Claim 19 has been amended and claims 22, 30 and 34-36 have been cancelled. No new subject matter is believed to have been added by this Amendment.

In Sections 1 and 2 of the Office Action, the Examiner requires restriction of Group I claims comprising claims 19-33 and 37 drawn to an object and Group II claims comprising claims 34-36 drawn to a method for affixing objects to products.

In Section No. 3, the Examiner indicates that, in a telephone conversation with Mr. Richard Byrne, a provisional election was made with traverse to prosecute the invention of Group I claims which are claims 19-33 and 37.

The Applicant respectfully disagrees with the restriction requirement. In particular, in accordance with MPEP Section 808, every requirement to restrict has two aspects: (a) the reasons why the inventions as claimed are either independent or distinct; and (b) the reasons for insisting upon such a restriction. The Examiner appears to present in support of the restriction U. S. Patent No. 5,102,485 to Keeler et al. (the Keeler patent) alleging that Group I and Group II claims are directed to a feature that is common in the teaching of the Keeler patent. The argument supports the position that Groups I and 2 claims are not independent and distinct and appears to refute the Examiner's position. Therefore, the Examiner has not provided reasons

supporting the allegation these claims are either independent or distinct. Furthermore, the Examiner must provide reasons for insisting upon such a restriction. As stated in MPEP Section 808.02, the Examiner, in order to establish reasons for insisting upon a restriction, must show by appropriate explanation one of the following:

- (a) separate classification thereof;
- (b) a separate status in the art if and when the claims are classified together;
and
- (c) a different field of search.

The Examiner has provided no such reasons to support this restriction. Therefore, the Applicant respectfully requests the restriction to be withdrawn and claims 34 through 36 to be reinstated and examined with the remaining claims.

In Section No. 4 of the Office Action, the Examiner objects to the disclosure citing a number of informalities. The disclosure has been amended to address these objections.

In Section No. 5, the Examiner objects to claims 19-33 and 37 indicating the word “of” before “affixing” in line 6 of claim 19 should be deleted. Claim 19 has been amended accordingly.

In Section No. 7 of the Office Action, the Examiner rejects claims 19-33 and 37 under 35 U.S.C. §112, second paragraph, as being indefinite. The Examiner cites a number of examples in claim 19. Claim 19 has been amended to address these rejections. The Examiner further highlights what appears to be redundant language between claims 29 and 30. Claim 30 has been cancelled.

In Section No. 10 of the Office Action, the Examiner rejects claims 19, 20, 23 and 26 under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as being obvious from the teaching of the Keeler patent. The Keeler patent is directed to an apparatus for continuous feeding and synchronized application of fitments to carton blanks by which a rotating drum 56 has six transfer stations 60, each station 60 with an air pervious lodgement surface 62 which transfer fitments 20 (Figure 3) from a dye cut web 22 to carton blanks on a continuous motion conveyor line 24. The drum 56 disclosed in the Keeler patent has a fixed diameter and, as a result, any fitment 20 attached to the carton blank B must have a thickness suitable to fit between the supply station 28 and the drum 56 and also between the drum 56 and the opposing roller 58. There is no provision in the Keeler patent to accommodate fitments 20 having a range of thickness. On the other hand, the Applicant's invention includes such a feature with a carrier which is movable in a radial direction with respect to the axis of rotation as found in dependent claim 22. Claim 19 has been amended with the limitation of claim 22 to provide such a distinction and, as a result, claim 19, as amended, is not believed to be either anticipated nor made obvious by the teaching of the Keeler patent. Furthermore, claims 20, 23 and 26 depend from what is believed to be patentably distinct independent claim 19 and are themselves, therefore, believed to be patentably distinct.

In Section No. 12, the Examiner rejects claims 21 and 25 under 35 U.S.C. Section 103(a) as being obvious from the teaching of the Keeler patent. By way of their dependence upon what is believed to be patentably distinct independent claim 19, claims 21 and 25 are also believed to be patentably distinct.

In Section No. 13 of the Office Action, the Examiner rejects claims 22 and 28-33 under 35 U.S.C. §103(a) as being obvious from the teaching of the Keeler patent in view of the teaching of United States Patent No. 4,605,459 to Voltmer et al. (the Voltmer '459 patent). The Voltmer '459 patent is directed to a literature applying machine, whereby a head 21, as discussed in column 3, lines 28-33, is comprised of three outwardly spring-biased suction cups 28 and a pair of pressure rolls 29, 29'. However, the mechanism disclosed in the Voltmer '459 patent does not have a carrier which is movable in the radial direction to move objects of varying thicknesses. To the contrary, as illustrated in Figure 1, the head 21 in the Voltmer '459 patent, in its relaxed position, as illustrated by the head 21, in the two-o'clock position in Figure 1, may not be radially extended to receive literature 19 of varying thicknesses. When the head 21 extends to the six-o'clock position, as illustrated in Figure 1, the head operates to secure the label 19 about an object. As mentioned, there is neither a teaching nor suggestion in the Voltmer '459 patent for radial movement of the carrier with respect to the axis of rotation to accommodate objects of various sizes. Therefore, by way of their dependence upon what is believed to be patentably distinct independent claim 19, claims 22 and 28-33 are also believed to be patentably distinct.

In Section No. 14, the Examiner rejects claims 24 and 27 under 35 U.S.C. §103(a) as being obvious in the teaching of the Keeler patent in view of the teaching of European Patent Application EP 035645 to Utsumi (the Utsumi patent application). The Utsumi patent application is directed to a method and apparatus for securing an article to a container where the object is affixed to the product using glue. First of all, claims 24 and 37 depend from what is believed to be patentably distinct claim 19 and are, therefore, believed to be patentably distinct. Additionally, while the Utsumi patent application may teach the use of glue to secure an object to a product, there is neither a teaching nor suggestion of such a device including a carrier movable in a radial direction with respect to the axis of rotation as found in claim 19. For that reason, claims 24 and 37, based upon their dependence upon what is believed to be patentably

distinct claim 19 are themselves believed to be patentably distinct.

In Section No. 15, the Examiner rejects claim 27 under 35 U.S.C. §103(a) as being obvious from the teaching of the Keeler patent in view of the teaching of Great Britain Patent No. GB 2188608 to Voltmer et al. (the Voltmer '608 patent). Claim 27 is directed to a control means which is provided with detection means to detect a moving product approaching the affixing means. By way of its dependence upon what is believed to be patentably distinct independent claim 19, claim 27 is also believed to be patentably distinct.

In Section No. 16, the Examiner rejects claims 19-23, 25-26 and 28-33 under 35 U.S.C. §103(a) as being obvious from the teaching of the Voltmer '459 patent in view of the teaching of the Keeler patent. For reasons previously discussed, claim 19 has been distinguished over the teaching of both the Voltmer '459 patent and the Keeler patent. Therefore, claim 19 is believed to be patentably distinct and claims 22-23, 25, 26, and 28-33 are themselves believed to be patentably distinct based upon their dependence upon independent claim 19.

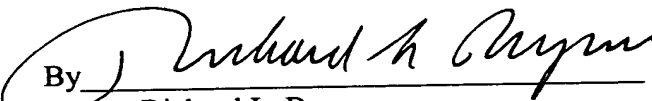
In Section No. 17, the Examiner rejects claims 24 and 37 under 35 U.S.C. §103(a) as being obvious from the teaching of the Voltmer '459 patent in view of the teaching of the Keeler patent and, further, in view of the teaching of the Utsumi patent application. By way of their dependence upon what is believed to be patentably distinct independent claim 19, claims 24 and 37 are also believed to be patentably distinct.

In Section No. 18, the Examiner rejects claims 27 under 35 U.S.C. §103(a) as being obvious from the teaching of the Voltmer '459 patent, in view of the teaching of the Keeler patent and, further, in view of the teaching of the Voltmer '608 patent. By way of dependence upon what is believed to be patentably distinct independent claim 19, claim 27 is also believed to be patentably distinct.

Reconsideration and allowance of pending claims 19-21, 23-29, 31-33 and 37 are respectfully requested.

Respectfully submitted,

WEBB ZIESENHEIM LOGSDON
ORKIN & HANSON, P.C.

By 

Richard L. Byrne
Registration No. 28,498
Attorney for Applicant
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818
Telephone: (412) 471-8815
Facsimile: (412) 471-4094

CHANGES TO THE SPECIFICATION AND CLAIMS
SHOWN USING REVISION MARKS

IN THE SPECIFICATION:

Please replace the paragraph beginning on page 3, line 16, with the following paragraph:

Preferably, the carrier is movable in a radial direction with respect to the axis of rotation, so that the carrier can move during standstill of the affixing means, to a position in which it abuts against an object which is present in the holder, from which position it can pull said object from the holder when the carrier moves in a reverse direction.

Please replace the paragraph beginning on page 7, line 29, with the following paragraph:

Figure 2 shows how the affixing means 2 can rotate through an angle of 120° in order to move the next carrier 4 to the upper position, from where said next carrier 4 can take along an object 6 from holder 5. Then the affixing means are rotated further through 120°, whereby the object 6 that was [take] taken along first is affixed to a product moving in path 1 in the direction indicated by arrow 8. The sub-atmospheric pressure is thereby released the moment carrier 4 occupies the lower position.

Please replace the paragraph beginning on page 8, line 1, with the following paragraph:

It will be apparent, that the affixing means 2 [rotate] rotates through an angle of 120° each time, whereby an object 6 can be affixed to a passing product, whilst affixing means 2 will be stationary for some time after each rotation, wherein a carrier 4 occupies the upper position,

engaging an object 6 from the holder 5 thereby.

Please replace the paragraph beginning on page 9, line 31, with the following paragraph:

The index mechanism which is used in this embodiment is a commercially available product. When ingoing shaft 29 of index mechanism 30 makes [on] one revolution at a substantially constant speed, outgoing shaft 31 will rotate through an angle of 120°, whereby shaft 31 will be stationary for some time and carry out said rotation for some time. The position which is shown in Figures 1 and 2 is the position in which affixing means 2 [are] is stationary.

IN THE CLAIMS:

Please amend claim 19 as follows:

19. (Once Amended) A device for affixing objects to products moving in a row, the device comprising a holder for a stock of the objects and [with] affixing means [further] comprising a carrier for removing one of the objects from the holder and moving the object, wherein the affixing means is capable of rotary movement about an axis of rotation and [of] affixing the object to [the] a moving product during the rotary movement of the affixing means, wherein the affixing means [can be] is capable of being driven intermittently between rotation and standstill, and wherein during the standstill of the affixing means the carrier can remove the object from the holder and wherein the carrier is movable in a radial direction with respect to the axis of rotation.

Please cancel claim 22.

Please cancel claim 30.

Please cancel claims 34-36.
